

## Message Text

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C O N F I D E N T I A L STATE 264474

ATTENTION: THEODORE PAPENDORP

REF: OECD PARIS 31256

FOLLOWING US BERLIN 2219 SENT ACTION SECSTATE INFO OECD PARIS  
OCT 18; REPEATED TO YOU QUOTE

C O N F I D E N T I A L USBERLIN 2219

DEPT PASS TO COMMERCE, DEFENSE, ERDA

E.O. 11652: GDS  
TAGS: ESTC, COCOM, GW, FR  
SUBJECT: SUMMARY OF MEETING OF COCOM SUBCOMMITTEE ON EXPORT  
CONTROLS

REF: STATE 245610

1. AFTER OPENING REMARKS BY COCOM CHAIRMAN INDELICATO,  
MEETING WAS TURNED OVER TO SUBCOMMITTEE CHAIRMAN  
POIRIER.

2. AGENDA ACCEPTED WITH DELETION US ITEM 9B (RECON-  
DITIONING OF EMBARGOED COMMODITIES) AT REQUEST US DEL,  
SINCE RECENT COCOM DISCUSSIONS SETTLED ISSUE PREVIOUSLY  
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PLACED ON AGENDA.

3. REPORT OF LAST MEETING REVIEWED WITH MINOR REVISIONS  
AGREED TO ON PARAGRAPH 14 AND JAPANESE APPROVAL OF  
PARAGRAPH 152 NOTED.

4. DIVERSIONS: SIC US SUBMISSIONS AND ONE BELGIAN SUBMISSION WERE REVIEWED. DOCUMENTARY AND/OR PROCEDURAL DEFICIENCIES NOTED IN EACH CASE. RE GENERAL DISCUSSIONS:

(A) SUBCOMMITTEE INTERESTED IN RECEIVING US DIVERSION CASE STATISTICS ON EASTERN EUROPE AS GROUP, RATHER THAN TOTAL FIGURES AS SUPPLIED IN CONTR (76)3.6. WE AGREED TO BREAK THESE FIGURES OUT.

(B) JAPANESE RAISED QUESTION WHETHER FORMER PORTUGUESE AFRICAN POSSESSIONS, SUCH AS ANGOLA, CAN CONTINUE TO BE LISTED AS COOPERATING COUNTRIES. US DEL VOICED OPINION THAT ADHERENCE TO FORMER INTERNATIONAL AGREEMENTS DID NOT NECESSARILY FOLLOW INDEPENDENCE AND THAT EXPLICIT REAFFIRMATION DESIRABLE. NEED WAS EXPRESSED FOR SECRETARIAT TO UPDATE LISTS OF COOPERATING COUNTRIES WITH CURRENT ADDRESSES OF RESPONSIBLE AGENCIES.

(C) RE TEMPORARY EXPORTS (FOR EXHIBITS OR DISPLAY) TIME LIMITS REPORTED BY PC'S: FRANCE, ONE MONTH AFTER CLOSING OF EXHIBITION; BELGIUM, THREE-MONTH PERIOD. POST EXHIBIT SALES REQUIRE COCOM CLEARANCE.

(D) SMALL VALUE DIVERSIONS: DIFFICULT TO CONTROL SINCE LIMITED VOLUME OF SMALL CONTROLLED ITEMS CAN MOVE IN PERSONAL BAGGAGE. DIPLOMATIC POUCH ABUSES ALSO CITED. SOME INDUSTRIES QUERY PC'S RE EAST EUROPEAN EMBASSIES INTERESTS IN PURCHASING STRATEGIC GOODS. SOME ADVISE AGAINST DELIVERY OF GOODS TO EMBASSIES OR REFER DELIVERY TO CUSTOMS OFFICIALS.

5. UPDATING OF PREVIOUS DIVERSION CASES: US SUBMITTED UPDATE ON FOUR CASES AND BELGIUM ON ONE.

6. EVIDENCE OF INCREASING DIVERSIONARY ACTIVITY AND CONFIDENTIAL

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NEED FOR COUNTERACTION BY PC'S: US READ STATEMENT RE GENERAL DIVERSIONARY PROBLEMS (COMPLIANCE STUDY), AND CITED IMPACT ON COCOM AS WELL AS DESIBILITY SUBCOMMITTEE DISCUSSIONS IN 1977. GENERAL REACTION ONE OF CONCERN AND IMPORTANT OF US COMPLETING REPORT SOONEST. OTHER PC'S FELT THAT IN VIEW POLITICAL IMPLICATIONS OF MATTER, US REPORT SHOULD BE SUBMITTED DIRECTLY TO FULL COCOM COMMITTEE.

7. SIMPLIFICATION OF EXPORT -- SMALL SHIPMENTS AND SHIPMENTS OF SPARES: PROPOSAL MADE TO INCREASE IC/DV CUTOFFS FIFTY PER CENT, COMPARABLE TO THAT AGREED IN AMENDMENT TWO TO COCOM DOC. REG. (73)3 (DEMINIMUS CASES) AND TO MAKE THIS PARALLEL INCREASE AUTOMATIC IN FUTURE. ALL PC'S EXCEPT US AGREED AT ONCE. US WILL REPORT ITS POSI-

TION.

8. UPDATING OF LIST OF AUTHORITIES ADMINISTERING EXPORT CONTROLS, SECRETARIAT PAPER 120. US SUBMITTED UPDATE, WHILE OTHER PC'S TO UPDATE SOONEST AND SECRETARIAT TO PUBLISH NEW LIST.

9. CURRENT PRACTICES RE CONTROL OF IL ITEMS EXPORTED BETWEEN PCS WHOSE FINAL DESTINATION IS EASTERN EUROPE: NUMERICAL CONTROL CASE AN EXAMPLE WHERE MACHINE TOOL MAY NOT BE INTERNATIONAL LIST, BUT NUMERICAL CONTROL ITSELF IS. MEMBER EXPORTING NUMERICAL CONTROL MAY NOT BE AWARE DESTINED FOR EASTERN EUROPE. GENERAL CONCLUSION POINTED TO NEED FOR IC AND DV, THE LATTER TO ASSURE AGAINST DIVERSION PRIOR TO DELIVERY TO PC. ONUS RESTS ON PC RECEIVING ITEM, SINCE MORE THAN LIKELY IT HOLDS TITLE TO GOODS. COUNTRY SHOULD COMPLY WITH COCOM REGULATIONS AND SECURE REQUIRED COCOM CLEARANCE. COOPERATION AMONG PC'S URGED.

10. TEMPORARY EXPORTS WHEN PRODUCT TO BE USED, REPEAT USED (NOT EXHIBITED) IN COMMUNIST COUNTRY: US INQUIRED AS TO PC PRACTICES REAUTHORIZING EXPORTS OF CONTROLLED PRODUCTS FOR USE IN COMMUNIST COUNTRIES FOR SPECIFIED PERIODS OF TIME AND RETURN TO EXPORTING COUNTRY. EXAMPLE GIVEN OF SEISMIC EQUIPMENT THAT MAY BE LEASED TO EASTERN EUROPE OR PRC. NO PC REPORTED ANY LEASING EXPERIENCE. CONFIDENTIAL

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THE FRENCH WERE SPECIFICALLY QUERIED AND STATED, AFTER PRODDING, THAT THEY WERE NOT AWARE OF ANY BARE-BOAT CHARTER OR LEASING ARRANGEMENT AND WONDERED WHETHER THE US WAS CONCERNED OVER THE EQUIPMENT ON BOARD THE VESSEL OR THE VESSEL ITSELF. FRENCH DELEGATE OF OPINION NO LICENSE REQUIRED OF VESSEL IS NOT COCOM LISTED. HOWEVER, IN CONTRAST, MAJORITY OF OTHER DELEGATES AGREED THAT CASES OF THIS NATURE, IE, TEMPORARY EXPORT FOR SPECIFIED USE, WOULD AND SHOULD REQUIRE COCOM CLEARANCE. THE CHAIRMAN, STATING THAT THIS WAS A NEW PROBLEM, CLOSED ISSUE BY STATING FINAL DECISION COULD NOT BE EXPECTED AND THAT THE ISSUE SHOULD BE PURSUED IN COCOM. MOST COUNTRIES, HOWEVER, STATED THEY WOULD FOLLOW NORMAL EXCEPTIONS PROCEDURES IN SUCH INSTANCES. US DEL WILL PURSUE MATTER WITH FRENCH DEL.

11. TAC: AGREEMENT REACHED TO CONTINUE TAC SYSTEM.

12. YUGOSLAVIA: US OUTLINED CURRENT DIFFICULTIES WITH YUGOSLAVIA AND URGED PC'S TO TAKE THEM FULLY INTO ACCOUNT WHEN LICENSING. UNFORTUNATE IF OTHER PC'S TOOK BUSINESS DENIED US FIRMS. PC'S REPORTED NO DIVERSION CASES OR PROBLEMS. EXPRESSED CONCERN OVER LEGAL DIFFICULTIES IN DENYING LICENSES WHEN YUGOSLAV FIRMS HAD NOT VIOLATED

(PC) NATIONAL LAWS. GENERAL APPRECIATION EXPRESSED REGARDING NEED FOR CAUTION, BUT ALSO NEED FOR MORE PERTINENT DETAILS FOR US RE YUGO EXPORT CONTROL SYSTEMS AND ITS OPERATION. WE AGREED TO SUPPLY REPORT AFTER NEXT YUGO-US MEETING.

13. SWITZERLAND: BELGIAN QUESTION RE PC VIEWS ON CONCLUDING GENERAL AGREEMENT WITH SWITZERLAND PERMITTING REEXPORT TO THIRD COUNTRY OF IL GOODS, FOUND NUMBER OF COUNTRIES EXPRESSING CONCERN AT EROSION OF CONTROLS. WE WERE PLEASED WITH THIS SUPPORT OF OUR POSITION. DISCUSSION INCONCLUSIVE, WITH BELGAINS NOT INDICATING FURTHER COURSE OF ACTION.

14. US LICENSING DELAYS: GERMAN DEL COMPLAINED RE LONG US DELAYS ON EXCEPTIONS CASES, ESPECIALLY WHERE US COMPONENTS INVOLVED. PROBLEM BECOMES MORE ACUTE AS EXPORTS INCREASE FROM US BRANCHES IN EUROPE. FRANCE, CANADA, THE UK AND BELGIUM EXPLAINED TREATMENT OF CASES INVOLVING CONFIDENTIAL

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US COMPONENTS, WHEREBY THEY GENERALLY ADVISE LOCAL EXPORTERS TO WORK THROUGH US SUPPLIERS TO OBTAIN US APPROVALS. THESE PC'S ALSO VOICED CRITICISM OF LONG US DELAYS IN SECURING COCOM SIGNOFFS. SOME REQUIRE US REEXPORT APPROVAL PRIOR TO GOING TO COCOM, OTHERS WAIT UNTIL CASE IN COCOM BEFORE RAISING ISSUE. US, IN RESPONDING STATED:

(A) DIVERSION CLAUSE SHOULD ALERT IMPORTER OF NEED TO SECURE US APPROVAL BEFORE REEXPORTATION.

(B) COCOM CASES WHICH INVOLVE US COMPONENTRY USUALLY, BUT NOT ALWAYS, IDENTIFY US PRODUCT BY MODEL NUMBER, SPECIFICATIONS, ETC.

(C) 1145 FORMS( REEXPORT) CONTAIN CERTIFICATION THAT COCOM CLEARANCES RESPONSIBILITY OF " X" COUNTRY.

(D) ON SUBJECT OF EXTENDED DELAYS, US CITED IN DETAIL STEPS BEING TAKEN BY WASHINGTON TO SPEED UP PROCESSING, INCLUDING WHITE HOUSE AND CONGRESSIONAL INTEREST. EXPRESSED CONFIDENCE FUTURE WOULD SHOW MARKED IMPROVEMENT.

15. PARTIAL SHIPMENTS: INVOLVED ARE REQUESTS BY US BRANCHES FOR LICENSES TO EXPORT TO BLOC. DIFFICULT TO ASCERTAIN COCOM CLEARANCE. US ADMITTED APPLICATIONS NOT OFTEN CLEAR REGARDING LOCUS FROM WHICH EQUIPMENT IS TO BE PHYSICALLY SHIPPED. MAY BE DIRECT FROM USA OR SUPPLIED FROM OR THROUGH SOURCE IN ANOTHER PC. US REGULATIONS PERMIT SUCH ACTION. PC'S WERE ADVISED TO SOLICIT COPY OF US AUTHORIZATION AS PROOF OF US APPROVAL.

16. SERVICING BY PC'S: QUESTION RAISED SINCE MANY US FIRMS SERVICE THEIR EQUIPMENT IN THE BLOC FROM EUROPEAN SOURCES. SOME DELEGATES FELT SERVICING PROCEDURES SHOULD BE EXPANDED TO PERMIT SERVICING WITH NECESSARY COMPONENTS

FROM OTHER THAN US SOURCES. REGARDLESS OF SOURCE OF ORIGINAL EXPORT. IN RESPONSE US CITED DANGER OF POSSIBLE DUPLICATE EXPORTS FROM VARIOUS SOURCES, POTENTIAL UNAPPROVED ENHANCEMENT OF PRODUCTS AND LOSS OF FACILITY OF IDENTIFY DIVERSION IF EXPANDED TO INCLUDE OTHER CONSIGNEES OR DESTINATIONS. WE INDICATED OUR RECORDS IN WASHINGTON PROVIDE THESE SAFEGUARDS. GERMANS, ALTHOUGH FRUSTRATED, DID NOT PRESS ISSUE.

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17. PUBLICATION OF IL LIST: THE UK, FRANCE, CANADA, THE NETHERLANDS, WEST GERMANY, ITALY, DENMARK AND NORWAY STATED THEY PUBLISH SOME LIST ON IL ITEMS, BUT AVOID TO SOME EXTENT PUBLICATION OF ADMINISTRATIVE EXCEPTION AND TECHNICAL NOTES. AS COMMON APPROACH AGREEMENT REACHED TO PUBLISH LIST UTILIZING IL NUMBERS, WITHOUT ANY REFERENCE TO COCOM IDENTITY, AND TO PUBLICIZE ABBREVIATED ADMINISTRATIVE EXCEPTION NOTES AND TECHNICAL NOTES THAT WOULD ASSIST IN IDENTIFYING COVERAGE BUT NOT ASSOCIATED OR RELATED TO COCOM PROCEDURES.

18. WE INFORMED SUBCOMMITTEE OF LEGISLATIVE SITUATION ON EXPORT CONTROL AND AFFECT OF TRADING WITH THE ENEMY ACT SINCE LAST EXPORT CONTROL ACT EXPIRED SEPT 30.

19. TECHNOLOGY TRANSFER: OUR PAPER DREW STRONG INTEREST OF MOST DELEGATIONS. INITIAL FEELING WAS THAT THIS QUESTION HAS BEEN DELAYED AND CONCLUSION REACHED THAT TECHNOLOGY CANNOT BE READILY CONTAINED BY LEGAL MEANS. HOWEVER, FURTHER DISCUSSION DID ELICIT CONCERN FROM GERMAN, BRITISH AND CANADIAN DELEGATIONS. WE LEARNED TO OUR SURPRISE THAT THE FRENCH HAVE NO LEGAL MEANS OF CONTROLLING TECHNOLOGY TRANSFER OR THE FRENCH DELEGATE WAS NOT AWARE OF ANY) AND THEREFORE CONTROLS ON TECHNOLOGY TRANSFER STIPULATED IN RECENT IL 1565 COULD NOT READILY BE ENFORCED IN FRANCE. THIS REVELATION BROUGHT THE SUBCOMMITTEE MEMBERS AROUND TO AGREEING TO REVIEW THEIR OWN NATIONAL REGULATIONS AS APPLIED TO TECHNOLOGY TRANSFER. THE CHAIRMAN STATED THAT THE SUBJECT WOULD BE INCLUDED ON THE NEXT SUBCOMMITTEE AGENDA. THEREFORE WE FEEL WE DID RENEW INTEREST IN THE SUBJECT WITH A VIEW TOWARD DEFINITE FUTURE COORDINATION AND DISCUSSION OF PC'S LEGAL POSITIONS ON TECHNOLOGY QUESTIONS.

20. DATE FOR NEXT SUBCOMMITTEE MEETING WAS SET TO TAKE PLACE IN ONE YEAR, UNLESS FOR SPECIAL CAUSE THE GROUP SHOULD MEET EARLIER -- FOR EXAMPLE, MID-1977. THE RESULT OF OUR COMPLIANCE STUDY AND ITS EFFECT ON COCOM WAS CITED AS CHIEF REASON FOR AN EARLY MEETING. THIS US RECOMMENDATION MET WITH GENERAL CONCURRENCE OF THE OTHER DELEGATES. GEORGE UNQUOTE KISSINGER

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